



## **OFFICE OF PERSONNEL MANAGEMENT**

### **Civil Service Retirement System and Federal Employees Retirement System; Notice to Surviving Same-Sex Spouses of Deceased Federal Annuitants, Employees, or Former Employees Who Died Prior to June 26, 2013**

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice.

**SUMMARY:** On August 2, 2013, the Office of Personnel Management (OPM) published notice in the Federal Register informing annuitants that they had an extended opportunity (until June 26, 2015), to elect survivor annuity benefits for their same-sex spouses if they had been married prior to the U.S. Supreme Court's decision in United States v. Windsor, 133 S.Ct. 2675 (2013), on June 26, 2013, and were prevented by the Defense of Marriage Act (DOMA), 1 U.S.C. § 7(3)(1996), from making a timely election. See 78 FR 47018 (Aug. 2, 2013). Similarly, because annuitants, employees, or former employees in same-sex marriages may have died prior to the Windsor decision (i.e. prior to June 26, 2013), and because the same-sex spouses of those deceased annuitants, employees, and former employees may not have applied for death benefits because of DOMA, or may have applied for death benefits but were denied benefits because of DOMA, OPM is publishing this notice to inform those surviving same-sex spouses that they may apply (or re-apply) for death benefits so that OPM can evaluate whether or not those same-sex spouses may now be entitled to survivor annuity or lump-sum death benefits.

**FOR FURTHER INFORMATION CONTACT:** Roxann Johnson, (202) 606-0299.

**SUPPLEMENTARY INFORMATION:** On June 26, 2013, the United States Supreme Court (the Supreme Court) held in United States v. Windsor, 133 S.Ct. 2675 (2013), that Section 3 of the Defense of Marriage Act (DOMA), 1 U.S.C. § 7(3)(1996), was unconstitutional. Section 3 of DOMA provided that, when used in a federal law, the term “marriage” would mean only a legal union between one man and one woman as husband and wife, and that the term “spouse” referred only to a person of the opposite sex who is a husband or a wife. Therefore, as a result of DOMA, OPM was not permitted to accept survivor annuity elections for same-sex spouses from retirees from September 21, 1996, until June 25, 2013. OPM also denied eligible same-sex surviving spouses monthly survivor annuity and/or lump-sum death benefits, and/or may have discouraged employees, annuitants, and/or surviving spouses from electing a survivor annuity benefit and/or applying for benefits during that period. After the U.S. Supreme Court held that DOMA was unconstitutional, however, OPM was able to extend benefits to surviving same-sex spouses of deceased federal annuitants, employees, and former employees under the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS), even if the annuitants, employees, and former employees had died before June 26, 2013.

Therefore, in order to ensure that surviving same-sex spouses of deceased federal annuitants, employees, or former employees who died prior to the Windsor decision on June 26, 2013, are able to exercise their rights and interests as “widows” and “widowers” under CSRS and FERS, OPM is providing this notice to inform those surviving same-sex spouses how they may apply for survivor annuities and/or lump-sum death benefits. OPM also wants to make clear that surviving same-sex spouses of deceased annuitants who died prior to June 26, 2013, may apply for benefits even if the annuitants did not attempt to elect survivor

annuity benefits for their spouses prior to death, and/or even if OPM has previously denied applications for benefits from surviving spouses as a result of DOMA.

**How To Apply For Benefits:** If you are a same-sex spouse of a deceased federal employee or annuitant whose spouse died before June 26, 2013, you may submit an application for death benefits (Standard Form (SF) 2800 for CSRS and SF 3104 for FERS) to OPM at this address:

Office of Personnel Management  
Survivor Benefits Windsor Decision  
P.O. Box 45,  
Boyers, PA 16017-0045

Surviving spouses may download these applications from OPM's website at <http://www.opm.gov/forms/standard-forms/>, or may call OPM's Retirement Information Office at 1-(888)-767-6738, or may send an email to [retire@opm.gov](mailto:retire@opm.gov) to request an application for benefits. Please include "Survivor Benefits Windsor Decision" in the subject line of the email.

When a same-sex surviving spouse submits an application for death benefits or contacts OPM for information regarding eligibility for benefits, the surviving spouse should inform OPM that s/he is a same-sex spouse of a deceased annuitant, federal employee or former federal employee who died prior to June 26, 2013. The surviving spouse should also send OPM a copy of the couple's marriage certificate and a copy of the annuitant's death certificate if OPM has not already received these documents. Additionally, the surviving spouse should provide OPM with the deceased federal employee's name, date of birth, and the annuitant's CSA/CSF number or social security number to expedite processing of the claim.

Office of Personnel Management.

Katherine Archuleta,  
Director.

Billing code: 6325-38

[FR Doc. 2014-22895 Filed 09/24/2014 at 8:45 am; Publication Date: 09/25/2014]